IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CRIMINAL MISC. PETITION NO. 1420/2007

C.N.Trading Company through its Proprietor Rajendra Singh
VS.
State of Rajasthan

DATE OF ORDER : 24/09/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sandeep Mehta for the petitioner.
Mr. Ashok Upadhyaya, public prosecutor for the State

Issue notice for final disposal. Mr. Ashok Upadhyay, public prosecutor accepts the notice on behalf of respondent State. With the consent of learned counsel for the parties, the criminal misc. petition itself is heard and decided at the admission stage.

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 24.8.2007 passed by Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short 'the Revisional Court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 5.6.2007 passed by Judicial Magistrate, First Class No.2, Bhilwara (for short 'the trial court' hereinafter), in criminal case No. 152/06 for the offence under Sections 41, 42 of the Forest Act dismissing the application filed by the petitioner under Section 451 Cr.P.C. for releasing the Truck

bearing No. RJ-06-G-1107 on Supardginama, was dismissed Aggrieved by the impugned orders, the petitioner has filed the instant petition.

I have heard learned counsel for the parties. Perused the orders impugned.

It is contended by the learned counsel for the petitioner that the petitioner is not an accused in the case and the vehicle alleged to have been found carrying woods, may be in contravention of the provisions of the Forest Act and the petitioner being owner of the said vehicle and having the only source of his livelihood, would be deprived of the vehicle and the livelihood if the vehicle in question is not released in his favour. The learned counsel for the petitioner further submitted that the petitioner is ready to furnish even solvent security. He therefore, submits that the vehicle in question may be released in favour of the petitioner on furnishing solvent security bond.

In Sunderbhai Ambalal Desai Vs. State of Gujarat, JT 2002 (10) SC 80, the Hon'ble Supreme Court held that whatever be the situation, it is of no use to keep seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of the applications

for return of such vehicles.

Having regard to the facts and circumstances of the case, in my view, the ends of justice would be met if the vehicle in question is released on Supardginama in favour of the petitioner on his furnishing personal and solvent security bonds.

In the result, the petition is allowed. The orders impugned dated 24.8.2007 and 5.6.2007 are set aside and it is directed that the vehicle in question shall be released on Supardginama in favour of the petitioner on furnishing a personal bond in the sum of Rs.3 lac and one solvent security bond of like amount, to the satisfaction of the trial court to produce the vehicle in question as and when called upon to do so with the condition incorporated therein that he will maintain and keep the vehicle in the same condition and shall not alienate, alter or transfer the vehicle during pendency of the case as also shall not allow the vehicle to be used for transporting any forest produce in contravention of the Forest Act.

(H.R.PANWAR),J.

rp.